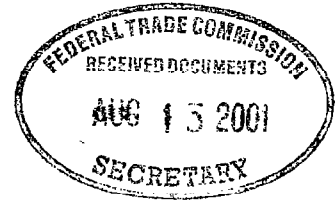




UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Competition

August 13, 2001



Via hand delivery

Hon. D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
Room 104
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

Re: *In the Matter of Schering-Plough Corp., Upsher-Smith Laboratories, and
American Home Products, Docket No. 9297*

Dear Judge Chappell:

On behalf of complaint counsel, I have enclosed two courtesy copies of Complaint Counsel's Answer to Schering-Plough Corporation's Joinder in American Home Products Corporation's Motion to Compel Complaint Counsel to Search the Federal Trade Commission for Responsive Documents.

Sincerely,

Steve Vieux
Counsel Supporting the Complaint

cc: Laura Shores, Esquire
Cathy Hoffman, Esquire
Christopher M. Curran, Esquire

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of

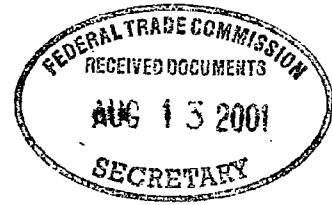
SCHERING-PLOUGH CORPORATION,
a corporation,

UPSHER-SMITH LABORATORIES,
a corporation,

and

AMERICAN HOME PRODUCTS
CORPORATION,
a corporation.

Docket No. 9297



**COMPLAINT COUNSEL'S ANSWER TO SCHERING-PLOUGH CORPORATION'S
JOINDER IN AMERICAN HOME PRODUCTS CORPORATION'S MOTION TO
COMPEL COMPLAINT COUNSEL TO SEARCH THE FEDERAL TRADE
COMMISSION FOR RESPONSIVE DOCUMENTS**

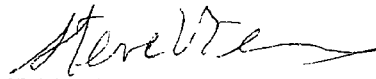
Respondent Schering-Plough Corporation ("Schering") seeks to join respondent American Home Products Corporation's ("AHP") Motion to Compel Complaint Counsel to Search the Federal Trade Commission ("FTC") for Responsive Documents. Schering raises the same arguments in its joinder that were raised in AHP's Motion to Compel for complaint counsel to extend its search 1) to the offices of individual Commissioners and their staff, and 2) to open and closed FTC investigatory files that are not related or relevant to this case. Since AHP and Schering make the same arguments, complaint counsel does not oppose Schering's joinder in AHP's motion, and incorporates by reference the arguments we made in Complaint Counsel's Opposition to AHP's Motion to Compel. Schering's demands should be denied along with AHP's.

how the favorable case law in those matters mirrors the present matter using publicly available information, as all attorneys do in oral argument. In fact, Schering's counsel also referred to the Hoechst/Andrx case and the underlying agreement in that matter when rebutting complaint counsel's argument.⁵ Therefore, these are not examples that would warrant complaint counsel's search of unrelated closed and open investigatory files.

II CONCLUSION

Complaint counsel does not oppose Schering's joinder in American Home Products Corporation's motion to compel. For the reasons stated above and in complaint counsel's Opposition to AHP's Motion to Compel, however, complaint counsel does oppose both AHP's and Schering's requests for a more extensive search.

Respectfully Submitted,



Karen Bokat
Steve Vieux

Counsel Supporting the Complaint

Bureau of Competition
Federal Trade Commission
Washington, D.C. 20580

Dated: August 13, 2001

⁵ See, e.g., Transcript of Pretrial Hearing, July 25, 2001, pp. 59-60.


CERTIFICATE OF SERVICE

I, Steve Vieux, hereby certify that on August 13, 2001, I caused a copy of Complaint Counsel's Answer to Schering-Plough Corporation's Joinder in American Home Products Corporation's Motion to Compel Complaint Counsel to Search the Federal Trade Commission for Responsive Documents to be filed with the Secretary of the Commission, that two paper copies were served by hand upon The Honorable D. Michael Chappell, and that one paper copy was served upon the following by Federal Express and facsimile:

Laura S. Shores, Esq.
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Attorney for respondent Upsher-Smith Laboratories, Inc.



Steve Vieux
Complaint Counsel